

**UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT**

NATIONAL LABOR RELATIONS *
BOARD

Petitioner,

v.

Case No. 16-1331

OBERTHUR TECHNOLOGIES OF *
AMERICA CORPORATION

Respondent.

* * * * *

RESPONDENT'S STATEMENT OF ISSUES TO BE RAISED

Pursuant to the Court's September 21, 2016 Order, Respondent Oberthur Technologies of America Corporation hereby submits its Statement of Issues to be Raised. Respondent notes that, due to the fact that this proceeding concerns an application by Petitioner for enforcement of an agency order that is the subject of a pending action for review filed in this Court by Respondent, the issues to be raised by Respondent are identical to those noted in Oberthur's Statement of Issues to Be Raised as filed in Case No. 16-1265:

1. Whether the National Labor Relations Board (the “Board”) erred in certifying the Union as the exclusive bargaining representative of a unit of employees located at Respondent’s Exton, Pennsylvania facility.

2. Whether the Board erred by failing to apply the standard set forth in *Desert Palace, Inc. d/b/a Caesars Tahoe*, 337 N.L.R.B. 1096 (2002) and instead sustaining challenges by the Union to ballots cast by John DiTore and Ben Sahijwana notwithstanding the fact that those employees were expressly included in the stipulated bargaining unit.

3. Whether the Board erred in concluding that John DiTore and Ben Sahijwana are “professional” employees for purposes of determining their eligibility for inclusion in the bargaining unit.

4. Whether, assuming *arguendo* that John DiTore and Ben Sahijwana are professional employees, the Board erred in failing to employ the election procedure specified in *Sonotone Corp.*, 90 N.L.R.B. 1236 (1950).

5. Whether, assuming *arguendo* that John DiTore and Ben Sahijwana are, as concluded by the Administrative Law Judge and affirmed by the Board, professional employees by virtue of their status as engineers, the Board erred in certifying the Union as the representative of the bargaining unit where the bargaining unit included another engineer who voted in the election without challenge.

6. Whether the Board erred in concluding that Respondent violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing to recognize and bargain with the Union and to provide the Union with information subsequent to the Board's order certifying the Union as the bargaining representative for the bargaining unit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on October 21, 2016, the foregoing document was served on all parties or their counsel of record through the CM/ECF system if such person was a registered user, or if such person was not a registered user, by serving a copy by mail at the addresses listed below:

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